

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CENTRAL EXCISE APPEAL NO.24 OF 2006

Commissioner of Central Excise,
Mumbai-II

.. Appellant

v/s.

M/s.Nehasu Tex Prochem

.. Respondent

Mr.A.S.Rao with Mr.S.M.Shah i/by Dr.T.C.Kaushik for the
appellant.

CORAM : R.M. LODHA &
J.P.DEVADHAR, JJ.

DATED : 22ND MARCH, 2006.

P.C.

Heard Mr.A.S.Rao, the learned counsel for the appellant.

2. The Tribunal in its order noticed thus-

- (b) Shri S.M.Doshi proprietor of M/s.Nehasu Tex Prochem expired on 1.9.2001 while show cause notice was issued to him on 14.12.2001; following D.Mate 2000 (126) ELT 1264; MAFHH Products (2003(57)RLT 596) the notice and demands & other liabilities on M/s.Nehasu is ab-initio invalid. Appeal now filed & pursued by the widow Smt.N.Doshi is to be allowed setting aside the order on M/s.Nehasu & Shri Doshi.
- (c) When duty demands on M/s.Nehasu are found to be not valid. The penalties on 'others' in whose names the clearances were allegedly shown and are the other appellants herein cannot be upheld.

- (d) Penalties under rule 209A cannot be upheld in any case since no goods are found to be liable to confiscation following D.Mate(2000 (126) ELT 1264 & Bright Brothers Ltd. (2004 (173) ELT 69).

3. The learned counsel does not dispute that M/s.Nehasu Tex Prochem was proprietorship concern of S.M.Doshi. He also did not dispute that S.M.Doshi died on 1.9.2001 while show-cause notice was issued to him on 14.12.2001. He did not dispute the correctness of the decision in the case of D.Mate, 2000 (126) ELT 1264. In view of this admitted position, we are satisfied that the order passed by the Tribunal does not suffer from any error of law.

4. No substantial question of law arises. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P.DEVADHAR, J.)